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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,549	06/26/2001	Ed Vaes	300p5	9432

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07/31/2003

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EXAMINER

BALSIS, SHAY L

ART UNIT

PAPER NUMBER

1744

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DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,549

Applicant(s)

VAES ET AL.

Examiner

Shay L Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because all the figures are not labeled. Page 7 of the drawing comprises a blown up view of figure 26, however, the blown up view is not labeled with a figure number. Same as for pages 8, 9, 10 and 11. Also, as shown on figures 1 and 2, there is a reference number (110) that are shared between the figures. Applicant must correct all the drawings in which reference numbers are shared between drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker et al. (USPN D412618).

Parker et al. teaches a paint brush having a ferrule, bristles and a handle. There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle theta relative a flat surface when the paint brush is laid on a flat surface.

4. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tapley et al. (USPN D448178).

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Tapley et al. teaches a paint brush having a ferrule, bristles and a handle. There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface.

5. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Frenkel (USPN 1763696).

Frenkel teaches a paint brush having a ferrule (12), bristles (13) and a handle (11). There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface (figure 5). The tilting means includes a sleeved-ferrule having a raise portion (14), including at least one dimple type ridge.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bell et al. (USPN D365210).

Bell et al. teaches a paint brush having a ferrule, bristles and a handle. There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface. The tilting means includes a sleeved-ferrule having a raise portion, including at least one dimple type ridge (figures 1-5).

7. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahlstrom et al. (USPN 6314604).

Ahlstrom et al. teaches a paint brush having a ferrule (4), bristles (5) and a handle (3). There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface (figure 1). The tilting means includes a ferrule having an adaptor piece with a raised portion (2), including at least one dimple type ridge (9, 10).

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8. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Zanchi (USPN 5084932).

Zanchi teaches a paint brush having a ferrule (14), bristles (20) and a handle (10). There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface. The tilting means includes a ferrule having a sleeve-adaptor piece (12) with a raised portion, including at least one dimple type ridge (16).

9. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Blount (USPN D206996).

Blount teaches a paint brush having a ferrule, bristles and a handle. There is a means for tilting the bristles of the brush upwardly away from a flat surface at an angle θ relative a flat surface when the paint brush is laid on a flat surface. The tilting means includes a ferrule comprising a sleeve-adaptor piece with a raised portion, including at least one dimple type ridge. The paint brush includes a brush head that is attached to a paint brush handle. The brush head is oriented along a brush plane. The paint brush handle including a handle is oriented along a handle axis. The handle axis is spaced from and substantially parallel to the brush plane.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frenkel (USPN 1763696) in view of Durcharme (USPN 5581421);

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. (USPN D365210) in view of Durcharme (USPN 5581421);

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlstrom et al. (USPN 6314604) in view of Durcharme (USPN 5581421);

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanchi (USPN 5084932) in view of Durcharme (USPN 5581421);

Frenkel, Bell et al., Ahlstrom et al. and Zanchi all teach the essential elements of the claimed invention however, the references fail to teach a paint brush with a brush head oriented substantially along a brush plane and a handle section oriented along a handle axis wherein the handle axis is spaced from and substantially parallel to the brush plane. Durcharme teaches a brush with a handle that has an axis that is spaced and parallel to the axis of the brush head. It would have been obvious to one of ordinary skill in the art the time the invention was made to use Durcharme handle for ergonomic purposes to aid holding the handle firmly. Additionally, the shape of the handle provides for constant eye monitoring while brushing. There is no obstructed vision between the user and the area being brushed (abstract).

12. Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frenkel (USPN 1763696) in view of Jobst (USPN D130823) in further view of Durcharme (USPN 5581421);

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Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. (USPN D365210) in view of Jobst (USPN D130823) in further view of Durcharme (USPN 5581421);

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlstrom et al. (USPN 6314604) in view of Jobst (USPN D130823) in further view of Durcharme (USPN 5581421);

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanchi (USPN 5084932) in view of Jobst (USPN D130823) in further view of Durcharme (USPN 5581421);

Frenkel, Bell et al., Ahlstrom et al., and Zanchi all teach the essential elements of the claimed invention however, the references fail to teach a paint brush with a brush head oriented substantially along a brush plane and a handle section oriented along a handle axis wherein the handle axis is spaced from and substantially parallel to the brush plane. Jobst teaches a brush with a handle that has an axis that is spaced and parallel to the axis of the brush head. It would have been obvious to one of ordinary skill in the art the time the invention was made to use Jobst handle for ergonomic purposes to aid holding the handle firmly. Additionally, the shape that Jobst teaches is the same shape as taught by Durcharme. Durcharme teaches that that particular shape of the handle provides for constant eye monitoring while brushing. There is no obstructed vision between the user and the area being brushed.

13. Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frenkel (USPN 1763696) in view of Parker et al. (USPN D412618) in further view of Durcharme (USPN 5581421);

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Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. (USPN D365210) in view of Parker et al. (USPN D412618) in further view of Durcharme (USPN 5581421);

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlstrom et al. (USPN 6314604) in view of Parker et al. (USPN D412618) in further view of Durcharme (USPN 5581421);

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanchi (USPN 5084932) in view of Parker et al. (USPN D412618) in further view of Durcharme (USPN 5581421);

Frenkel, Bell et al., Ahlstrom et al., and Zanchi all teach the essential elements of the claimed invention however, the references fail to teach a paint brush with a brush head oriented substantially along a brush plane and a handle section oriented along a handle axis wherein the handle axis is spaced from and substantially parallel to the brush plane. Parker et al. teaches a brush with a handle that has an axis that is spaced and parallel to the axis of the brush head. It would have been obvious to one of ordinary skill in the art the time the invention was made to use Parker et al. handle for ergonomic purposes to aid holding the handle firmly. Additionally, the shape that Parker et al. teaches is the same shape as taught by Durcharme. Durcharme teaches that that particular shape of the handle provides for constant eye monitoring while brushing. There is no obstructed vision between the user and the area being brushed.

14. Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frenkel (USPN 1763696) in view of Tapley et al. (USPN D448178) in further view of Durcharme (USPN 5581421);

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Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. (USPN D365210) in view of Tapley et al. (USPN D448178) in further view of Durcharme (USPN 5581421);

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlstrom et al. (USPN 6314604) in view of Tapley et al. (USPN D448178) in further view of Durcharme (USPN 5581421);

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanchi (USPN 5084932) in view of Tapley et al. (USPN D448178) in further view of Durcharme (USPN 5581421);

Frenkel, Bell et al., Ahlstrom et al. and Zanchi all teach the essential elements of the claimed invention however, the references fail to teach a paint brush with a brush head oriented substantially along a brush plane and a handle section oriented along a handle axis wherein the handle axis is spaced from and substantially parallel to the brush plane. Tapley et al. teaches a brush with a handle that has an axis that is spaced and parallel to the axis of the brush head. It would have been obvious to one of ordinary skill in the art the time the invention was made to use Tapley et al. handle for ergonomic purposes to aid holding the handle firmly. Additionally, the shape that Tapley et al. teaches is the same shape as taught by Durcharme. Durcharme teaches that that particular shape of the handle provides for constant eye monitoring while brushing. There is no obstructed vision between the user and the area being brushed.

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Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

slb
July 28, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700